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10/725,299	12/01/2003	Werner Beck	P02.0628-01	2868

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SCHIFF HARDIN & WAITE
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

EXAMINER	
PIZIALI, JEFFREY J	

ART UNIT	PAPER NUMBER
2629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/725,299	BECK ET AL.	
	Examiner	Art Unit	
	Jeff Piziali	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2 and 10-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2 and 10-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Nokita (US 6,795,528 B2)*** in view of ***Lemelson et al (US 6,847,336 B1)***. Please note: Claim order has been altered to reflect claim dependencies.

Regarding claim 10, ***Nokita*** discloses an operating device [*Fig. 1*] for a medical diagnostic imaging unit [*Fig. 1; x-ray sensor 140 used in diagnosis in medical practice*] (*see Column 3, Line 50 - Column 4, Line 53*), said operating device comprising:

a display screen [*Fig. 1, image display unit 200; Figs. 8ABC, LCD touch panel 810*];

a control unit [*Fig. 1; imaging controller 180, image processor 190*] configured to operate said display screen to enter, in a current value-entering session, at least one examination value [*Figs. 8AB; 835 -- e.g., imaging method parameters, standard imaging conditions, imaging region, etc.*] for implementing an examination by said medical diagnostic imaging unit;

said control unit being configured to operate said display screen, in said current-value entering session, in a programmed mode [*Figs. 8AB*] in which,

in an operating area [*Figs. 8AB; 840*] of the display screen, only a selection key field [*Figs. 8AB; touch panel depressible imaging method object display area buttons 840*] is displayed,

said selection key field being activatable to select at least one preset value [*Figs. 8AB; imaging method parameters 835 -- e.g., Tube Voltage = 72kV; Tube Current = 170mA; Exposure Time = 50msec; Focal Length = 120cm*] that is preset prior to said current value entering session,

said at least one preset value being selected from the group consisting of

preset operating values of said medical diagnostic imaging unit and

preset parameter values of said medical diagnostic imaging unit [*Figs. 8AB; imaging method parameters 835 -- e.g., tube voltage, tube current, exposure time, focal length, etc.*];

said control unit being also configured to operate said display screen, in said current-value entering session, in a manual mode [*Fig. 8C*] in which,

in said operating area of said display screen, only a setting key field [*Fig. 8C; up and down buttons*] is displayed,

said setting key field being activatable to selectively set at least one settable value [*Figs. 8AB; imaging method parameters 835 & overlay window -- e.g., Tube Voltage = 72kV; Tube Current = 170mA; Exposure Time = 18msec; Focal Length = 50cm*] selected from the group consisting of

settable operating values of said medical diagnostic imaging unit and

settable parameters of said medical diagnostic imaging unit [*e.g., Fig. 8C; imaging method parameters 835 & overlay window -- e.g., tube voltage, tube current, exposure time, focal length, etc.*];

said control unit being configured to display, in said current-value entering session, in a display area [*Figs. 8ABC; at least a portion of image display area 825, object information display area 830, at least a portion of parameter display area 835*] of said display screen that does not overlap said operating area,

display elements [*Figs. 8ABC; 835 -- e.g., Tube Voltage = 72kV*] respectively representing said at least one preset value and said at least one settable value [*Figs. 8ABC; tube voltage, tube current, exposure time, focal length, etc.*];

said control unit being configured to display, in said current-value entering session, at said display screen,

a mode selection field [*Figs. 8AB, 850; Fig. 8C, CANCEL, OK buttons*] that is activatable to select, as a selected mode, only one of either

said manual mode or

said programmed mode;

said control unit being configured, in said current-value entering session, to initially maintain all of said display area unchanged and visually unobstructed (*see Figs. 8ABC; wherein at least the imaging method parameter 72kV tube voltage remains unchanged and visually unobstructed going from Figs. 8AB to 8C*),

when switching between said manual mode and said programmed mode by activation of said mode selection field,

until said selection key field or said setting key field in the selected mode is activated after said switching; and

said control unit being configured to display, in said current-value entering session at said display screen,

a trigger key [*Figs. 8AB, 850; Fig. 8C, CANCEL button*] that, when activated, emits a current content of said display area, as said at least one examination value, as an output available to said medical diagnostic imaging unit (*see the entire document, including Column 10, Line 3 - Column 11, Line 9*).

Should it be shown that ***Nokita*** neglects teaching, with sufficient specificity, initially maintaining all of said display area unchanged and visually unobstructed, when switching between said manual mode and said programmed mode:

Lemelson discloses a graphical user interface [*Fig. 7C*] for displaying x-ray images [*Fig. 7C: 94, 96*] alongside operating device parameter values [*Fig. 7C: 98*] (*see Column 17, Line 55 - Column 18, Line 12*).

Moreover, ***Lemelson*** discloses the GUI technique of resizing (*as well as tiling, cascading, selecting, hiding, rearranging, and adjusting the transparency of*) windows containing medical x-ray data was well known and commonly understood by those skilled in the art at the time of invention (*referring to such techniques as "well known programming techniques from the Macintosh or Windows 95 operating systems"*).

Nokita and ***Lemelson*** are analogous art, because they are from the shared inventive field of operating devices and graphical user interfaces for medical diagnostic imaging units.

Therefore, it would have been obvious to one having ordinary skill in the art to use ***Lemelson's*** resizing window technique to move and/or resize ***Nokita's*** parameter modification window [*overlaid window in Fig. 8C*] such that ***Nokita's*** window would only be big enough to overlay/cover the touch panel depressible imaging method object display area buttons [*Figs. 8AB; 840*], leaving display area [*Figs. 8ABC; 825, 830, 835, 875*] completely visible -- so as to provide the user with greater flexibility in controlling how much data can be displayed at any given time.

Regarding claim 2, ***Nokita*** discloses the operating device is designed as a touch-sensitive display screen [*Figs. 8ABC, LCD touch panel 810*] (*see Column 10, Line 3 - Column 11, Line 9*).

Regarding claim 11, ***Nokita*** discloses said control unit is configured to display said display elements as text elements [*Figs. 8ABC; tube voltage, tube current, exposure time, focal length, examinee name, ID number, front cervical vertebrae, etc.*] (*see Column 10, Line 3 - Column 11, Line 9*).

Regarding claim 12, ***Nokita*** discloses said control unit is configured to display said display elements as graphics elements [*Figs. 8ABC; tube voltage, tube current, exposure time, focal length, examinee name, ID number, front cervical vertebrae, vertebrae graphics, etc.*] (*see Column 10, Line 3 - Column 11, Line 9*).

Regarding claim 13, ***Nokita*** discloses said control unit is configured to display said trigger key at said display screen in each of said manual mode and said programmed mode (*see Column 10, Line 3 - Column 11, Line 9*).

Regarding claim 14, ***Nokita*** discloses said medical diagnostic imaging unit is an x-ray examination unit, and wherein

said control unit is configured to display, in said selection key field,

a plurality of selection keys [*Figs. 8AB; touch panel depressible imaging method object display area buttons 840*] each associated with one anatomical x-ray examination in a plurality of anatomical x-ray examinations [*Figs. 8AB; FRONT, CROSS-SECTION, SIDE, LEFT BACK AT A TILT ANGLE*],

each selection key allowing a user to select said at least one preset value for the anatomical x-ray examination associated with that selection key, and

to display, in said selection key field, a plurality of different setting keys [*Figs. 8AB; FRONT, CROSS-SECTION, SIDE, LEFT BACK AT A TILT ANGLE buttons*] that respectively allow manual setting of said at least one settable value for a component of said x-ray examination unit (*see Column 10, Line 3 - Column 11, Line 9*).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 14 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claim 14 contains subject matter (e.g., lines 8-10): "***display, in said selection key field, a plurality of different setting keys that respectively allow manual setting of said at least one settable value***") which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

7. Claim 14 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Claim 14 contains subject matter (e.g., lines 8-10): "***display, in said selection key field, a plurality of different setting keys that respectively allow manual setting of said at least one settable value***") which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 14 recites, "*said medical diagnostic imaging unit is an x-ray examination unit, and wherein said control unit is configured to display, in said selection key field, a plurality of selection keys each associated with one anatomical x-ray examination in a plurality of anatomical x-ray examinations, each selection key allowing a user to select said at least one preset value for the anatomical x-ray examination associated with that selection key, and to* ***display, in said selection key field, a plurality of different setting keys that respectively allow manual setting of said at least one settable value for a component of said x-ray examination unit***."

In contrast, the instant specification states, "*At the same time,* ***it is only the operating elements 14, 15, 16 required to activate preset values that are made available****, and so an operator is not confused by further, unnecessary keys for manual activation of values. Manual activation of the values is seldom required in routine operation of the X-ray machine 1, and so* ***operating elements for manual setting are not required***" (see Page 7, Paragraph 27).

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.

An omitted structural cooperative relationship results from the claimed subject matter: "***display, in said selection key field, a plurality of different setting keys that respectively allow manual setting of said at least one settable value for a component of said x-ray examination unit***" (in dependent claim 14, lines 8-10) and

"***in an operating area of the display screen, only a selection key field is displayed, said selection key field being activatable to select at least one preset value that is preset prior to said current value entering session, said at least one preset value being selected from the group consisting of preset operating values of said medical diagnostic imaging unit and preset parameter values of said medical diagnostic imaging unit***" (in independent claim 10, lines 8-15). For example:

It would be unclear to one having ordinary skill in the art whether the instantly claimed invention is limited to only displaying (in the programmed mode) a selection key field that is activatable to select preset values; or rather whether manual setting of settable values is also possible in the programmed mode.

Response to Arguments

11. Applicant's arguments filed 3 February 2009 have been fully considered but they are not persuasive.

The Applicant contends, "*For example, the Examiner has identified the display area 840 in those figures as corresponding to the 'operating area' of the display screen as set forth in claim 10. The language of claim 10, however, explicitly states that, in this 'operating area,' only a selection key field is displayed in the programmed mode.*

Claim 10 further states that, in the manual mode, in this same operating area of the display screen, only a setting key field is displayed. As can be seen from Figure 8C (which the Examiner contends corresponds to the claimed 'manual mode'), however, the key field used in that mode in the ***Nokita*** *reference is overlaid on top of the area 840, and therefore the key field in which settings are made in the mode shown in Figure 8C of the* ***Nokita*** *reference does not allow the aforementioned operating area 840 to still be visually unobstructed for the user.*" (see Page 8 of the Response filed 3 February 2009). However, the examiner respectfully disagrees.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (*i.e., the operating area is to be visually unobstructed for the user*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In this instance, the specification does not appear to lend much, if any, support for the concept of the programmed mode's operating area remaining visually unobstructed when in the manual mode, as argued. On the contrary, the instant application's programmed mode's operating area [*see Fig. 2: 21*] disappears from sight when in the manual mode [*see Fig. 3: 21*].

The Applicant contends, "*This is why, consistent with the above discussion, claim 10 explicitly states that the control unit is configured to display elements respectively representing at least one preset value (from the programmed mode) and at least one settable value (from the manual mode) in a display area of the display screen that does not overlap the operating area. If the display area is, as designated by the Examiner, the area 840 shown in Figure 8A, and if the operating area for the manual mode is the overlay shown in Figure 8C, this explicit language of claim 10 is not satisfied by the* ***Nokita*** *reference. The* ***Nokita*** *reference, therefore, does not disclose all of the elements of claim 10 as arranged and operating in that claim, and thus does not anticipate claim 10, or any of the claims depending therefrom.*" (see Page 9 of the Response filed 3 February 2009). However, the examiner respectfully disagrees.

The ***instant invention*** discloses a preset parameter value [*e.g., Fig. 2: X-ray voltage = 23.2 kV*] in the programmed mode's display area [*e.g., Fig. 2: 20*], and a settable parameter value [*e.g., Fig. 3: X-ray voltage = 23.2 kV*] in the manual mode's display area [*e.g., Fig. 3: 20*].

Similarly, ***Nokita*** discloses a preset parameter value [*e.g., Fig. 8B: X-ray tube voltage = 72 kV*] in the programmed mode's display area [*e.g., Fig. 8B: 835*], and a settable parameter

value [*e.g., Fig. 8C: X-ray tube voltage = 72 kV*] in the manual mode's display area [*e.g., Fig. 8C: 835*].

The ***instant invention*** discloses the programmed mode's display area [*e.g., Fig. 2: 20*] does not overlap the programmed mode's operating area [*e.g., Fig. 2: 21*], and the manual mode's display area [*e.g., Fig. 3: 20*] does not overlap the manual mode's operating area [*e.g., Fig. 3: 21*].

Wherein, for example, at least one parameter value [*e.g., Figs. 2-3: X-ray voltage = 23.2 kV*] is clearly not overlapping either mode's operating area.

Similarly, ***Nokita*** discloses the programmed mode's display area [*e.g., Fig. 8B: 835*] does not overlap the programmed mode's operating area [*e.g., Fig. 8B: 840*], and the manual mode's display area [*e.g., Fig. 8C: 835*] does not overlap the manual mode's operating area [*e.g., Fig. 8C: up and down arrow buttons*].

Wherein, for example, at least one parameter value [*e.g., Figs. 8B-8C: 72 kV at 835*] is clearly not overlapping either mode's operating area.

The Applicant contends a benefit of their invention is that, "*After the user has selected values in the programmed mode, therefore, the user can still see those values after switching to the manual mode, and thus can make entries in the manual mode with the values selected in the programmed mode still displayed to and visually observable by the user. The user thus does not*

have to remember those values, but instead has those values still displayed to him or her at the beginning of the manual mode." (see Page 9 of the Response filed 3 February 2009).

However, a user of ***Nokita's*** device does not need to remember at least one parameter value [*e.g., Figs. 8B-8C: X-ray tube voltage = 72 kV*]. As is clearly illustrated [*e.g., Figs. 8B-8C: at 835*], the X-ray tube voltage remains visually observable in both the programmed mode and the manual mode.

The ***instant invention*** discloses maintaining all of said display area unchanged and visually unobstructed, when switching between said manual mode [*e.g., Fig. 2: 20*] and said programmed mode [*e.g., Fig. 3: 20*].

Wherein, for example, at least one parameter value [*e.g., Figs. 2-3: X-ray voltage = 23.2 kV*] is clearly unchanged and visually unobstructed in both modes.

Similarly, ***Nokita*** discloses maintaining all of said display area [*e.g., Figs. 8B-8C: display area = 72 kV*] unchanged and visually unobstructed, when switching between said manual mode [*e.g., Fig. 8B: 835*] and said programmed mode [*e.g., Fig. 8C: 835*]

Wherein, for example, at least one parameter value [*e.g., Figs. 8B-8C: 72 kV at 835*] is clearly unchanged and visually unobstructed in both modes.

The Applicant contends, "*The Examiner relied on the* ***Lemelson*** *et al. reference solely as providing a disclosure regarding display of medical image data. The* ***Lemelson*** *et al. reference*

does not provide any teachings for modifying the basic operation of the ***Nokita*** *reference as described above, and therefore claim 10, nor any of the claims depending therefrom would not have been obvious to a person of ordinary skill in the field of displaying medical image data, under the provisions of 35 U.S.C. §103(a) based on the teachings of* ***Nokita*** *and* ***Lemelson*** *et al.*" (see Pages 9-10 of the Response filed 3 February 2009). However, the examiner respectfully disagrees.

Lemelson discloses a graphical user interface [*Fig. 7C*] for displaying x-ray images [*Fig. 7C: 94, 96*] alongside operating device parameter values [*Fig. 7C: 98*] (*see Column 17, Line 55 - Column 18, Line 12*).

Moreover, ***Lemelson*** discloses the GUI technique of resizing (*as well as tiling, cascading, selecting, hiding, rearranging, and adjusting the transparency of*) windows containing medical x-ray data was well known and commonly understood by those skilled in the art at the time of invention (*referring to such techniques as "well known programming techniques from the Macintosh or Windows 95 operating systems"*).

Nokita and ***Lemelson*** are analogous art, because they are from the shared inventive field of operating devices and graphical user interfaces for medical diagnostic imaging units.

Therefore, it would have been obvious to one having ordinary skill in the art to use ***Lemelson's*** resizing window technique to move and/or resize ***Nokita's*** parameter modification window [*overlaid window in Fig. 8C*] such that ***Nokita's*** window would only be big enough to overlay/cover the touch panel depressible imaging method object display area buttons [*Figs. 8AB; 840*], leaving display area [*Figs. 8ABC; 825, 830, 835, 875*] completely visible -- so as to

provide the user with greater flexibility in controlling how much data can be displayed at any given time.

Applicant's arguments with respect to claims 2 and 10-14 have been considered but are moot in view of the new ground(s) of rejection.

By such reasoning, rejection of the claims is deemed necessary, proper, and thereby maintained at this time.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Piziali whose telephone number is (571) 272-7678. The examiner can normally be reached on Monday - Friday (6:30AM - 3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chanh Nguyen can be reached on (571) 272-7772. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff Piziali/
Primary Examiner, Art Unit 2629
1 May 2009